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CC:CORP:1-PLR-119750-02

Date:

August 6, 2002

Legend:

CommonParent =

Distributing1 =

Distributing2 =

Distributing3 =

Controlled1 =

Controlled2 =

Subsidiary1 =

PLR-119750-02

Subsidiary2 =

Subsidiary3 =

Subsidiary4 =

Subsidiary5 =

Subsidiary6 =

Subsidiary7 =

StateA =

StateB =

StateC =

StateD =

StateAgencyA =

FederalAgencyA =

FederalAgencyB =

OrganizationA =

OrganizationB =

OrganizationC =

PLR-119750-02

OrganizationD =

SystemA =

AssetsA =

AssetsB =

AssetsC =

BusinessA =

BusinessB =

BusinessC =

DateA =

DateB =

DateC =

DateD =

Year1 =

Year2 =

Year3 =

BillA =

Chapter #XYZ =

Title #A =

CodeA =

Section #A&A =

PLR-119750-02

ArrangementA =

Dear

This is in response to your authorized representative's letter dated April 2, 2002, requesting rulings under section 355 of the Internal Revenue Code (the "Code") with respect to a proposed series of transactions (the "Ruling Request"). Additional information was received in a subsequent letter submitted by mail and facsimile.

The rulings contained in this letter are predicated upon the facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the factual information, representations, and other data may be required as part of the audit process.

SUMMARY OF FACTS

CommonParent, a StateA corporation, is the common parent of a consolidated group. CommonParent is a public utility holding company and owns, directly or indirectly, all or substantially all of the outstanding stock of domestic electric utility subsidiaries and other subsidiaries. CommonParent's stock is publicly traded. Two of CommonParent's domestic electric utility subsidiaries, Distributing1 and Distributing2 (sometimes referred to herein collectively as "the Distributing Corporations"), are the subject of this letter ruling. Another domestic subsidiary of CommonParent, Distributing3, is also the subject of this letter ruling.

As of the date of the Ruling Request, CommonParent directly owns 100% of the outstanding common stock of Distributing3, a StateB corporation. Distributing3, in turn, directly owns 100% of the outstanding common stock of Distributing1, a StateC corporation. Distributing3's stock ownership represents 100% of the voting power of Distributing1. Distributing3 has owned 100% of the outstanding common stock of Distributing1 for more than five years. Distributing1 has outstanding shares of cumulative preferred stock, the holders of which are not entitled to vote for the election of directors.

In addition to directly owning 100% of the common stock of Distributing1, Distributing3 also directly owns 100% of the outstanding common stock of Distributing2, a StateC corporation. Distributing3's stock ownership represents 100% of the voting power of Distributing2. Distributing 3 has owned 100% of the outstanding common stock of Distributing2 for more than five years. Distributing2 has outstanding shares of cumulative preferred stock, the holders of which are not entitled to vote for the election of directors.

PLR-119750-02

Distributing1 and Distributing2 are each a vertically-integrated electric utility that provides service to customers in parts of StateC. Distributing1 and Distributing2 are subject to regulation in StateC by StateAgencyA, as well as by several Federal agencies, including FederalAgencyA and FederalAgencyB. In addition, the operations of Distributing1 and most of the operations of Distributing2 are located within the territory of OrganizationA. Recently, StateAgencyA has charged OrganizationA with overseeing the restructuring of the electric utility industry as required by certain provisions of StateC BillA. As of DateA, OrganizationA expanded the scope of its responsibilities to include scheduling and coordinating power transmission in the area of StateC over which it has jurisdiction. SystemA of Distributing1 and Distributing2 are subject to the scheduling and coordination functions now performed by OrganizationA.

In addition, Distributing3 is also the subject of this letter ruling. On DateB, CommonParent acquired 100% of the sole outstanding class of stock of Distributing3 in a tax-free reorganization.

CommonParent, Distributing1, Distributing2 and Distributing3 currently use the accrual method of accounting.

CommonParent also directly owns 100% of the outstanding stock of Subsidiary1, a StateA corporation which provides various services at cost to CommonParent, Distributing1, Distributing2, and Distributing3, as well as to other subsidiaries of CommonParent.

Distributing1 currently is directly engaged in BusinessA and BusinessB in StateC. Distributing1 began BusinessA and BusinessB in Year1 (more than five years preceding the date of the Ruling Request) and has been continuously engaged in such businesses since that time. As of DateC, Distributing1 legally separated the assets and employees related to BusinessC, a portion of BusinessB conducted in StateC, into OrganizationB.

Distributing2 currently is also directly engaged in BusinessA and BusinessB in StateC. Distributing2 began BusinessA and BusinessB in Year2 (more than five years preceding the date of the Ruling Request) and has been continuously engaged in such businesses since that time. As of DateC, Distributing2 legally separated the assets and employees related to BusinessC, a portion of BusinessB conducted in StateC, into OrganizationB.

Immediately prior to the proposed transactions, Distributing3 will form Subsidiary2 and become directly engaged in BusinessB in StateD (the "Distributing3 Active Business") through the following transactions:

PLR-119750-02

(i) Distributing3 will form Subsidiary2 under the laws of StateD as a first-tier, wholly-owned limited liability company of Distributing3 by contributing cash (in an amount to be determined) in exchange for 100% of the sole outstanding class of member interests in Subsidiary2. Under Treasury Regulations section 301.7701-3(b)(1)(ii), Subsidiary2 will be treated as a disregarded entity for federal income tax purposes.

(ii) CommonParent will contribute all of the stock of Subsidiary4, a corporation that will be formed under the laws of StateD to hold AssetsA and AssetsB of Subsidiary3, an existing StateD corporation, to Distributing3, with the result that Subsidiary4 will be a first-tier, wholly-owned subsidiary of Distributing3 (the "Contribution").

(iii) Subsidiary4 will merge into Subsidiary2 with Subsidiary2 as the surviving entity (the "Merger").

Following the Merger, Subsidiary2 will continue to be a first-tier wholly-owned subsidiary of Distributing3. References herein to Distributing3 include Subsidiary2 where relevant.

Prior to the Contribution and the Merger, the Distributing3 Active Business was carried on as a separate business line by Subsidiary3 since Year3 (more than five years preceding the date of the Ruling Request).

BusinessA has AssetsC. BusinessB has AssetsA and AssetsB. Following the Contribution and the Merger, Distributing3 will own and operate its AssetsB located in StateD. Pursuant to a FederalAgencyA Opinion pertaining to a prior transaction, OrganizationC will perform certain functions with respect to the AssetsA located in StateD that Distributing3 will receive from Subsidiary3 through the Contribution and the Merger. However, Distributing3 will own its AssetsB and perform active and substantial management functions with respect to its AssetsA.

In order to meet the requirements set forth in Chapter #XYZ to Title #A of CodeA of StateC (the "State C Code"), in particular Section #A&A of the State C Code, and to further the current business policies and objectives of CommonParent (as represented infra), the following transactions have been proposed:

Transaction 1

(i) Distributing1 and Distributing2 will each form a wholly-owned corporation under the laws of StateC ("Controlled 1" and "Controlled 2", respectively, and sometimes referred to herein collectively as "the Controlled Corporations") and will contribute its BusinessA assets to such subsidiary in exchange for 100% of the sole

PLR-119750-02

outstanding class of capital stock of such subsidiary (the “BusinessA Asset Drop-Down”).

(ii) Distributing1 will then distribute 100% of the outstanding capital stock of Controlled1 (the “Controlled1 Stock”) and Distributing2 will then distribute 100% of the outstanding capital stock of Controlled2 (the “Controlled2 Stock”) to Distributing3, the sole holder of each subsidiary’s outstanding common stock (the “First Spin-off”). It is the intention of CommonParent that the holders of the outstanding series of cumulative preferred stock in Distributing1 and Distributing2 will not participate in the First Spin-off. Neither Distributing1 nor Distributing2 will retain any shares of the Controlled1 Stock or the Controlled2 Stock, respectively, following the First Spin-off.

Transaction 2

(i) Distributing3 will distribute 100% of the Controlled1 Stock and 100% of the Controlled2 Stock to CommonParent as the sole holder of all of Distributing3’s outstanding common stock (the “Second Spin-off” and together with the First Spin-off, the “Spin-offs”). Distributing3 will not retain any shares of the Controlled1 Stock or the Controlled2 Stock following the Second Spin-off.

(ii) CommonParent will contribute all of the Controlled1 Stock and the Controlled2 Stock to a new company, Subsidiary5. Subsidiary5 will itself form a single member limited liability company, Subsidiary6, to which Subsidiary5 will contribute all of the Controlled1 Stock and the Controlled2 Stock. Finally, Subsidiary6 will form a new holding company, Subsidiary7, to which Subsidiary6 will contribute all of the Controlled1 Stock and the Controlled2 Stock (collectively, the “Controlled Stock Drop-down”).

Prior to the BusinessA Asset Drop-down, the Spin-offs and the Controlled Stock Drop-down, CommonParent intends to cause Distributing3, directly or indirectly, to incur third-party debt, either through the capital markets or through borrowings with unrelated financial institutions. Distributing3 will (a) through ArrangementA, then lend a portion of the third-party debt proceeds to Distributing1 and Distributing2 and (b) contribute a portion of the third-party debt proceeds to Distributing1 and Distributing2 as equity. Distributing1 and Distributing2 are expected to use such proceeds to pay off their respective outstanding indebtedness (i.e., first mortgage bonds) associated with the AssetsC being transferred by each of Distributing1 and Distributing2 to Controlled1 and Controlled2 in the BusinessA Asset Drop-down. Prior to the BusinessA Asset Drop-down and the Spin-offs, pollution control bonds issued in favor of Distributing1 and Distributing2 will be assigned to Subsidiary6. At this point, CommonParent, Distributing1, Distributing2 and Distributing3 will proceed with the BusinessA Asset Drop-down, the Spin-offs, and the Controlled Stock Drop-down as outlined immediately above.

PLR-119750-02

After the Spin-offs and the Controlled Stock Drop-down, Distributing1, Distributing2, Distributing3, Controlled1, and Controlled2 will use the accrual method of accounting and will have a tax year ending DateD.

Following the Spin-offs and the Controlled Stock Drop-down, Distributing1 will continue to be directly engaged in BusinessB (except that portion of BusinessB that was transferred to OrganizationB) in StateC (the "Distributing1 Active Business"). In order to engage in the Distributing1 Active Business, Distributing1 will own, maintain and operate its AssetsB and will own, maintain and operate (other than with respect to certain scheduling and coordination functions which will be performed by OrganizationA) its AssetsA. Following the Spin-offs and the Controlled Stock Drop-down, Distributing2 will continue to be directly engaged in BusinessB (except that portion of BusinessB that was transferred to OrganizationB) in StateC (the "Distributing2 Active Business"). In order to engage in the Distributing2 Active Business, Distributing2 will own, maintain and operate its AssetsB and will own, maintain and operate (other than with respect to certain scheduling and coordination functions which will be performed by OrganizationA) its AssetsA.

Following the Spin-offs and the Controlled Stock Drop-down, Distributing3, through Subsidiary2, will continue to own and actively operate its AssetsB in StateD, which assets will have a fair market value in excess of two-thirds of the total fair market value of the gross assets of Subsidiary2 immediately after the Spin-offs. In addition, Distributing3, through Subsidiary2, will also own its AssetsA in StateD. However, in accordance with the requirements of certain FederalAgencyA Orders and a FederalAgencyA Opinion pertaining to a prior transaction, Distributing3 or Subsidiary2 will, at some future date yet to be determined, transfer control with respect to certain functions, but not ownership, of the AssetsA used by Subsidiary2 in the Distributing3 Active Business to OrganizationD. OrganizationD will assume the functions currently performed by OrganizationC (as well as certain other additional functions) with respect to the AssetsA currently held by Subsidiary3 that (i) will be transferred to Subsidiary2 in the Contribution and Merger, and (ii) will subsequently be used by Subsidiary2 in the Distributing3 Active Business.

Following the Spin-offs and the Controlled Stock Drop-down, Controlled1 and Controlled2 will be directly engaged in BusinessA in StateC (the "BusinessA Active Business").

REPRESENTATIONS

The following representations have been made in connection with the proposed First Spin-off:

- (a) The indebtedness, if any, owed by Controlled1 and Controlled2 to Distributing1 and Distributing2, respectively, after the distribution of the

PLR-119750-02

Controlled1 Stock and the Controlled2 Stock will not constitute stock or securities.

- (b) No part of the Controlled1 Stock or the Controlled2 Stock to be distributed by Distributing1 and Distributing2, respectively, will be received by Distributing3 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing1 and Distributing2.
- (c) For each of Distributing1 and Distributing2, the five years of financial information submitted on behalf of the Distributing1 Active Business and Distributing2 Active Business is representative of its present operations and there have been no substantial operational changes since the date of the last financial statements submitted, except for the separation of assets and employees related to BusinessC as described above.
- (d) The five years of financial information submitted on behalf of the BusinessA Active Business as conducted by each of Distributing1 and Distributing2 is representative of the present operations of each of Distributing1 and Distributing2 with regard to BusinessA and there have been no substantial operational changes since the date of the last financial statements submitted.
- (e) Following the First Spin-off, Distributing1, Distributing2, Controlled1 and Controlled2 will each continue the active conduct of its business, independently and with its separate employees.
- (f) The First Spin-off is primarily being undertaken for regulatory reasons. Specifically, the First Spin-off allows CommonParent to comply with the requirements set forth in BillA of StateC. The First Spin-off is also being undertaken for the following corporate business purposes: (i) to provide for greater corporate and organizational separation of BusinessA from BusinessB, which will (a) provide investors with a clearer view of the value to be unlocked in each business, (b) foster accountability of each business, and (c) permit more efficient financing, all of which will result in enhanced efficiencies and economies; (ii) to focus management and technical expertise to maximize the potential growth of both regulated and non-regulated operations and to evaluate the performance of these separate and different businesses; (iii) to facilitate management's strategy (a) to grow CommonParent's unregulated businesses, (b) to evaluate other business opportunities, (c) to explore ways to improve the results of operations, and (d) to continuously evaluate, and, where necessary, reshape CommonParent's business to grow earnings and improve shareholder value; and (iv) to allow CommonParent to conduct BusinessB separate and apart from BusinessA, in compliance with the separation

PLR-119750-02

requirements of federal and state restructuring legislation and codes of conduct and in a manner which will permit management to respond more efficiently to regulatory changes and new requirements brought on by deregulation. All of these corporate business purposes will permit CommonParent to effect fit and focus, within the meaning of Revenue Procedure 96-30, 1996-1 C.B. 696, with respect to its BusinessA. The First Spin-off is motivated, in whole or substantial part, by all of these regulatory and corporate business purposes.

- (g) Except for the distribution by Distributing3 of all of the Controlled1 Stock and the Controlled2 Stock in the Second Spin-off to CommonParent, the parent corporation of an affiliated group of which Distributing3 is a member (within the meaning of Code section 1504), there is no other plan or intention by Distributing3 to sell, exchange, transfer by gift, or otherwise dispose of any of the stock or securities of Distributing1, Distributing2, Controlled1 or Controlled2 after the First Spin-off.
- (h) There is no plan or intention by Distributing1, Distributing2, Controlled1 or Controlled2, directly or through any subsidiary corporation, to purchase any of its outstanding stock, respectively, after the First Spin-off, other than through stock purchases meeting the requirements of Section 4.05(1)(b) of Rev. Proc. 96-30.
- (i) Except for the distribution by Distributing3 of all of the Controlled1 Stock and the Controlled2 Stock in the Second Spin-off to CommonParent, the parent corporation of an affiliated group of which Distributing3 is a member (within the meaning of Code section 1504), there is no other plan or intention to liquidate Distributing1, Distributing2, Controlled1 or Controlled2, to merge any such corporation with any other corporation, or to sell or otherwise dispose of any of the assets of any such corporation subsequent to the First Spin-off except in the ordinary course of business.
- (j) The total adjusted basis and the fair market value of the assets transferred to Controlled1 and Controlled2 by Distributing1 and Distributing2, respectively, each equals or exceeds the sum of the liabilities assumed by Controlled1 and Controlled2 plus any liabilities to which the transferred assets are subject.
- (k) The liabilities assumed in the First Spin-off and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (l) Neither Distributing1 nor Distributing2 accumulated its receivables or

PLR-119750-02

made extraordinary payment of its payables in anticipation of the First Spin-off.

- (m) Except for the loans made by Distributing3 to each of Distributing1 and Distributing2 from ArrangementA as described above, no intercorporate debt will exist between Distributing1 or Distributing2 and Controlled1 and Controlled2, respectively, at the time of, or subsequent to, the First Spin-off.
- (n) Immediately before the First Spin-off, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treasury Regulation sections 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597 and as currently in effect; section 1.1502-13, as published by T.D. 8597). Distributing3 will not have an excess loss account in the stock of either Distributing1 or Distributing2 immediately before the First Spin-off. Neither Distributing1 or Distributing2 will have an excess loss account in the Controlled1 Stock or the Controlled2 Stock, respectively, immediately before the First Spin-off.
- (o) Payments made in connection with all continuing transactions, if any, between Distributing1 and Distributing2, on the one hand, and Controlled1 and Controlled2, on the other hand, will be for fair market value based on terms and conditions arrived at by parties bargaining at arms-length; however, certain payments may be at cost as dictated by constraints imposed by OrganizationA, FederalAgencyA, FederalAgencyB, and other regulatory agencies.
- (p) No two parties to the First Spin-off are investment companies as defined in Code section 368(a)(2)(F)(iii) and (iv).
- (q) The First Spin-off is not part of a plan or series of related transactions (within the meaning of Code section 355(e)) pursuant to which one or more persons will acquire directly or indirectly stock possessing 50% or more of the total combined voting power of all classes of stock of Distributing1, Distributing2, Controlled1 or Controlled2 entitled to vote, or stock possessing 50% or more of the total value of all classes of stock of Distributing1, Distributing2, Controlled1 or Controlled2.
- (r) For purposes of Code section 355(d), immediately after the First Spin-off, no person (determined after applying Code section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power or 50 percent or more of the total value of shares of all classes of the stock of Distributing1 or Distributing2 that was acquired by purchase (as

PLR-119750-02

defined in Code sections 355(d)(5) and (8)) during the five-year period (determined after applying Code section 355(d)(6)) ending on the date of the First Spin-off.

- (s) For purposes of Code section 355(d), immediately after the First Spin-off, no person (determined after applying Code section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power or 50 percent or more of the total value of shares of all classes of the Controlled1 Stock or the Controlled2 Stock that was acquired by purchase (as defined in Code sections 355(d)(5) and (8)) during the five-year period (determined after applying Code section 355(d)(6)) ending on the date of the First Spin-off.
- (t) There will be no excess loss account in the stock of any of Distributing1, Distributing2, Controlled1 or Controlled2 immediately prior to the First Spin-off, and accordingly the proposed First Spin-off will not result in the elimination of any excess loss account in the stock of any of Distributing1, Distributing2, Controlled1 or Controlled2.

The following representations have been made in connection with the proposed Second Spin-off:

- (a) The indebtedness, if any, owed by Controlled1 and Controlled2 to Distributing3 after the distribution of the Controlled1 Stock and the Controlled2 Stock will not constitute stock or securities.
- (b) No part of the Controlled1 Stock or the Controlled2 Stock to be distributed by Distributing3 will be received by CommonParent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing3.
- (c) The five years of financial information submitted on behalf of the Distributing3 Active Business is representative of present operations and there have been no substantial operational changes since the date of the last financial statements submitted.
- (d) The five years of financial information submitted on behalf of the BusinessA Active Business as conducted by each of Distributing1 and Distributing2 is representative of the present operations of each of Distributing1 and Distributing2 with regard to BusinessA and there have been no substantial operational changes since the date of the last financial statements submitted.
- (e) Following the Second Spin-off, Distributing3, Controlled1 and Controlled2 will each continue the active conduct of its business, independently and with its separate employees.

PLR-119750-02

- (f) The Second Spin-off is being undertaken for the following corporate business purposes: (i) to provide for greater corporate and organizational separation of BusinessA from BusinessB, which will (a) provide investors with a clearer view of the value to be unlocked in each business, (b) foster accountability of each business, and (c) permit more efficient financing, all of which will result in enhanced efficiencies and economies; (ii) to focus management and technical expertise to maximize the potential growth of both regulated and non-regulated operations and to evaluate the performance of these separate and different businesses; (iii) to facilitate management's strategy (a) to grow CommonParent's unregulated businesses, (b) to evaluate other business opportunities, (c) to explore ways to improve their results of operations, and (d) to continuously evaluate, and, where necessary, reshape CommonParent's business to grow earnings and improve shareholder value; and (iv) to allow CommonParent to conduct BusinessB separate and apart from BusinessA, in compliance with the separation requirements of federal and state restructuring legislation and codes of conduct and in a manner which will permit management to respond more efficiently to regulatory changes and new requirements brought on by deregulation. All of these corporate business purposes will permit CommonParent to effect fit and focus, within the meaning of Revenue Procedure 96-30, 1996-1 C.B. 696, with respect to its BusinessA. The Second Spin-off is motivated, in whole or substantial part, by all of these corporate business purposes.
- (g) Except for the Controlled Stock Drop-down, there is no other plan or intention by CommonParent to sell, exchange, transfer by gift, or otherwise dispose of any of the Controlled1 Stock or the Controlled2 Stock after the Second Spin-off.
- (h) There is no plan or intention by Distributing3, Controlled1 or Controlled2, directly or through any subsidiary corporation, to purchase any of its outstanding stock, respectively, after the Second Spin-off.
- (i) Except for the Controlled Stock Drop-down, there is no other plan or intention to liquidate Distributing3, Controlled1 or Controlled2, to merge any such corporation with any other corporation, or to sell or otherwise dispose of any of the assets of any such corporation subsequent to the Second Spin-off except in the ordinary course of business.
- (j) Distributing3 did not accumulate its receivables or make extraordinary payment of its payables in anticipation of the Second Spin-off.
- (k) No intercorporate debt will exist between Distributing3, on the one hand, and Controlled1 and Controlled2, on the other hand, at the time of, or subsequent to, the Second Spin-off.

PLR-119750-02

- (l) Immediately before the Second Spin-off, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treasury Regulation sections 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597 and as currently in effect; section 1.1502-13, as published by T.D. 8597). CommonParent will not have an excess loss account in the stock of Distributing3 immediately before the Second Spin-off and Distributing3 will not have an excess loss account in the Controlled1 Stock or the Controlled2 Stock immediately before the Second Spin-off.
- (m) Payments made in connection with all continuing transactions, if any, between Distributing3, on the one hand, and Controlled1 and Controlled2, on the other hand, will be for fair market value based on terms and conditions arrived at by parties bargaining at arms-length; however, certain payments may be at cost as dictated by constraints imposed by OrganizationA, FederalAgencyA, FederalAgencyB, and other regulatory agencies.
- (n) No two parties to the Second Spin-off are investment companies as defined in Code section 368(a)(2)(F)(iii) and (iv).
- (o) The Second Spin-off is not part of a plan or series of related transactions (within the meaning of Code section 355(e)) pursuant to which one or more persons will acquire directly or indirectly stock possessing 50% or more of the total combined voting power of all classes of stock of Distributing3, Controlled1 or Controlled2 entitled to vote, or stock possessing 50% or more of the total value of all classes of stock of Distributing3, Controlled1 or Controlled2.
- (p) For purposes of Code section 355(d), immediately after the Second Spin-off, no person (determined after applying Code section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power or 50 percent or more of the total value of shares of all classes of the stock of Distributing3 that was acquired by purchase (as defined in Code sections 355(d)(5) and (8)) during the five-year period (determined after applying Code section 355(d)(6)) ending on the date of the Second Spin-off.
- (q) For purposes of Code section 355(d), immediately after the Second Spin-off, no person (determined after applying Code section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power or 50 percent or more of the total value of shares of all classes of the Controlled1 Stock or the Controlled2 Stock that was acquired by purchase (as defined in Code sections 355(d)(5) and (8)) during the five-year period (determined after applying Code section 355(d)(6)) ending on the date of the Second Spin-off.

PLR-119750-02

- (r) There will be no excess loss account in the stock of any of Distributing³, Controlled¹ or Controlled² immediately before the Second Spin-off, and accordingly the proposed Second Spin-off will not result in the elimination of any excess loss account in the stock of any of Distributing³, Controlled¹ or Controlled².

RULINGS

The First Spin-off

Based solely on the information submitted and on the representations made, it is held as follows:

- (1) The respective transfers by the Distributing Corporations to the Controlled Corporations of assets solely in exchange for all of the stock of the Controlled Corporations, as described above, followed by the distributions of all of the stock of the Controlled Corporations to Distributing³ in the First Spin-off will be a reorganization within the meaning of §368(a)(1)(D). The Distributing Corporations and the Controlled Corporations will each be “a party to a reorganization” within the meaning of §368(b).
- (2) No gain or loss will be recognized by the Distributing Corporations upon the respective transfers of assets to the Controlled Corporations in exchange for stock of the Controlled Corporations, as described above. §361(a) and §357(a).
- (3) No gain or loss will be recognized by the Controlled Corporations on the respective receipt of the assets in exchange for stock in the Controlled Corporations, as described above. §1032(a).
- (4) The basis of the Distributing Corporations’ assets received by the Controlled Corporations, respectively, will be the same as the basis of such assets in the hands of the Distributing Corporations, respectively, immediately prior to the First Spin-off described above. §362(b).
- (5) The holding period of the Distributing Corporations’ assets received by the Controlled Corporations, respectively, will include the period during which such assets were held by the Distributing Corporations, respectively, before the First Spin-off. §1223(2).
- (6) No gain or loss will be recognized by the Distributing Corporations upon the distributions of their stock in the Controlled Corporations to Distributing³ in the First Spin-off, as described above. §361(c).
- (7) No gain or loss will be recognized by (and no amount will be included in the

PLR-119750-02

income of) Distributing3 upon the receipt of the stock of the Controlled Corporations in the First Spin-off, as described above. §355(a)(1).

- (8) Distributing3's aggregate basis in the Controlled1 Stock and the stock of Distributing1 will be the same as Distributing3's basis in the stock of Distributing1 immediately before the First Spin-off, allocated between the Controlled1 Stock and the stock of Distributing1 in proportion to the respective fair market values of each in accordance with Treas. Reg. §1.358-2(a)(2). Distributing3's aggregate basis in the Controlled2 Stock and the stock of Distributing2 will be the same as Distributing3's basis in the stock of Distributing2 immediately before the First Spin-off, allocated between the Controlled2 Stock and the stock of Distributing2 in proportion to the respective fair market values of each in accordance with Treas. Reg. §1.358-2(a)(2).
- (9) The holding period of the stock of the Controlled Corporations (including any fractional share of the stock of the Controlled Corporations) received by Distributing3 in the First Spin-off will include the holding period of the stock of the respective Distributing Corporation on which the First Spin-off are made, provided the stock of such Distributing Corporations is held as a capital asset on the date of the First Spin-off. §1223(1).
- (10) Earnings and profits will be allocated between the Distributing Corporations and the Controlled Corporations, respectively, in accordance with §312(h) and Treas. Reg. §§ 1.312-10 and 1.1502-33(f)(2).

The Second Spin-off

Based solely on the information submitted and on the representations made, it is held as follows:

- (1) No gain or loss will be recognized by Distributing3 upon the distribution of its stock in the Controlled Corporations to CommonParent in the Second Spin-off. §355(c)(1).
- (2) No gain or loss will be recognized by (and no amount will be included in the income of) CommonParent upon receipt of the stock of the Controlled Corporations in the Second Spin-off. §355(a)(1).
- (3) CommonParent's aggregate basis in the Controlled1 Stock, the Controlled2 Stock, and the stock of Distributing3 will be the same as CommonParent's basis in the stock of Distributing3 immediately before the Second Spin-off, allocated between the Controlled1 Stock, the Controlled2 Stock, and the stock of Distributing3 in proportion to the respective fair market values of each in accordance with Treas. Reg. §1.358-2(a)(2).

PLR-119750-02

- (4) The holding period of the stock of the Controlled Corporations received by CommonParent in the Second Spin-off will include the holding period of the stock of Distributing3 with respect to which the Second Spin-off is made, provided that such shares are held as capital assets on the date of the Second Spin-off. §1223(l).
- (5) Earnings and profits will be allocated between Distributing3 and the Controlled Corporations in accordance with §312(h) and Treas. Reg. §§1.312-10 and 1.1502-33(f)(2).

No opinion is expressed as to the tax treatment of the transactions under other provisions of the Code or regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the transactions that are not specifically covered by the above rulings.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent by facsimile and mail to the taxpayer's representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Lisa A. Fuller
Assistant Branch Chief, Branch 1
Office of Associate Chief Counsel
(Corporate)

cc: